IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL No. 1313 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03/08/2004 in WP No.13570 OF 2004 on the file of the High Court.)

Between:

Shaik Safiya Begum, W/o.Late Mohaboob Ali,
R/o D.No.17-4-9, 1st Lane, Anandapet, Guntur District

..... APPELLANT

AND

Municipal Corporation of Guntur, rep.by

its Commissioner, Guntur.

.....RESPONDENT

Counsel for the Appellant: Mr.R.PRABHAKAR

Counsel for the Respondent : Mr.T.S.VENKATARAMANA

The Court made the following :

ORAL JUDGMENT: (per THE HON'BLE THE CHIEF JUSTICE)

Writ Petition of the appellant was dismissed by learned single Judge on the ground that the writ petitioner-appellant had availed of the remedy of filing of a suit and that alternative remedy having been availed, she has to approach the civil Court and move appropriate application.

The main prayer in the writ petition by the appellant is to direct the respondent to regularize and register the plot situated in T.S.Nos.793 & 795, Block No.4, Ward No.9, Anandapeta, Guntur Municipality, Plot No.7, presently given the Municipal Door No.17-4-9, I Lane, Anandapeta in compliance of the notice in Rc.No.366/76.G3, dated 29-11-1985 issued by the respondent under G.O.Ms.No.387, Municipal Administration, dated 14-8-1985.

Admittedly, suit filed by the writ petitioner-appellant is only to protect her possession directing the respondent not to interfere with her peaceful possession. These averments have been made by the appellant in the writ petition. The main prayer in the writ petition is not the subject matter of the suit. At this stage, learned single Judge ought not to have dismissed the writ petition on the ground that writ petitioner-appellant had availed of the alternative remedy by way of suit. Availing of remedy by the appellant before the civil Court cannot be a ground for rejecting the prayer in the main writ petition, since the prayer in the suit is only to protect her possession. May be that petitioner had also sought for interim direction not to interfere with her

peaceful possession and that interim direction could be declined because the appellant had approached the civil Court for that relief and for that reason, she will not be entitled to the interim relief sought for in the writ petition. Therefore, impugned order cannot be sustained. It is set aside

Writ Appeal is allowed. Writ Petition be heard and decided on merits and in accordance with law.

_____

(**DEVINDER GUPTA, CJ**)

2nd September, 2004

_____

(**C.V. RAMULU,J**)

Prk

JOINT REGISTRAR

To

1. The Commissioner, Municipal Corporation of Guntur, Guntur.
2. Two CD copies